

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

Hector Villafuerte,)	
)	
Plaintiff,)	Civil Action No.: 9:18-cv-00483-JMC
)	
v.)	
)	
Department of Corrections, <i>SCDC</i>)	ORDER
<i>Estate of South Carolina,</i>)	
)	
Defendants.)	
_____)	

This matter is before the court on review of the Magistrate Judge’s Report and Recommendation (“Report”) (ECF No. 11), filed on March 27, 2018, recommending that the court dismiss Plaintiff’s Complaint without prejudice.

The Magistrate Judge’s Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(d) for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court, which has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made. Fed. R. Civ. P. 72(b)(2)-(3).

The parties were advised of their right to file objections to the Report. (ECF No. 11 at 7), but neither party did so.

In the absence of objections to the Magistrate Judge’s Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the

record in order to accept the recommendation.”” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (*quoting* Fed. R. Civ. P. 72 advisory committee’s note). Furthermore, failure to file specific written objections to the Report results in a party’s waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *see Wells v. Shriners Hosp.*, 109 F.3d 198, 200 (4th Cir. 1997) (“[t]he Supreme Court has authorized the waiver rule that we enforce. . . . ‘[A] court of appeals may adopt a rule conditioning appeal, when taken from a district court judgment that adopts a magistrate’s recommendation, upon the filing of objections with the district court identifying those issues on which further review is desired.’”) (citing *Thomas v. Arn*, 474 U.S. 140, 155 (1985)).

After a thorough review of the Report and the record in this case, the court finds the Report provides an accurate summary of the facts and law. Plaintiff has failed to state a cognizable request for relief. Additionally, the Eleventh Amendment to the United States Constitution bars Plaintiff’s claim against the South Carolina Department of Corrections. For this reason, the court **ACCEPTS** the Report’s recommendation to **DISMISS WITHOUT PREJUDICE** Plaintiff’s Complaint (ECF No. 1), and not to issue and serve process. (ECF No. 11.)

IT IS SO ORDERED.


United States District Judge

April 30, 2018
Columbia, South Carolina